

University of California, Hastings College of the Law UC Hastings Scholarship Repository

Propositions

California Ballot Propositions and Initiatives

1934

SUPERIOR COURT JUDGES

Follow this and additional works at: http://repository.uchastings.edu/ca_ballot_props

Recommended Citation

SUPERIOR COURT JUDGES California Proposition 14 (1934).
http://repository.uchastings.edu/ca_ballot_props/329

This Proposition is brought to you for free and open access by the California Ballot Propositions and Initiatives at UC Hastings Scholarship Repository. It has been accepted for inclusion in Propositions by an authorized administrator of UC Hastings Scholarship Repository. For more information, please contact marcusc@uchastings.edu.

	SUPERIOR COURT JUDGES: Assembly Constitutional Amendment 98.		
	Empowers county over fifteen hundred thousand population at election to adopt new method selecting superior court judges. Governor appoints to fill vacancies from recommendations by board comprising Chief Justice Supreme Court, Presiding Justice Appellate District Court and county's State Senator. Appointment is until general election after four years following April first succeeding occurrence of vacancy. If incumbent declares candidacy people determine whether he be retained. If not, Governor appoints from those then recommended by board. Candidacy of each judge submitted to people each six years. People vote to retain or retire him.	YES	
14		NO	

(For full text of measure, see page 28, part II)

Argument in Favor of Assembly Constitutional Amendment No. 98

1. The administration of justice in Los Angeles County will be immeasurably improved by this amendment. It will enable the selection of better judges and take them out of politics. Improvement is needed desperately. Three judges were recalled last year.

2. The amendment applies to Los Angeles County alone. California should accord Los Angeles County the right to select its judges by a method that will meet its needs and eliminate existing evils.

3. The plan proposed reverts to American fundamentals. Nine of the original thirteen colonies still select judges other than by election.

4. The amendment passed the Assembly by overwhelming vote, the Senate without dissenting vote. It is sponsored by the State Bar of California and approved by the leading lay organizations of Los Angeles County.

5. The population of Los Angeles County is over 2,200,000. As many as 105 candidates appear on one ballot for superior court. No longer is it possible for the people to know for whom to vote. There is a voters' strike. Of those who voted for Governor at the last election, 60 per cent voted for no candidate for superior judge. More and more unqualified persons are worming their way to the bench by political methods.

6. Under this amendment, vacancies are filled by the Governor. He, however, must appoint from a selected list of not less than twice nor more than three times the number to be appointed, provided by a board composed of the Chief Justice of the State, the Presiding Justice of Division One of the District Court of Appeals, and the Senator from that county. This board can ascertain, carefully, the best available lawyers. Every consideration will impel it to make good selections. Poor selections will only condemn the board. Its members are elective.

Appointment is until first election succeeding the fourth year after appointment. The appointee will be able to demonstrate whether

he is a good judge. At the expiration of his term, if he desires to stand for election, his name goes on the ballot with the words, "shall he be elected for the term expiring -----?", with space for voting "Yes" or "No."

7. The board does not appoint. It is a check upon the Governor. The right to select the judge still remains in the people. They have the final veto and ultimate complete control. In effect, a means of intelligent nomination is provided. The board and Governor's appointees are subject to recall.

Under the present method, incumbents, however unqualified, continue in office. The better lawyers do not desire to become candidates. Under the amendment, the people can vote to retire an incumbent, knowing his place will be filled by a competent successor. Good men will accept appointments, because the judge will no longer be immersed in politics.

8. Los Angeles judges are now obliged to devote a large amount of their time to politics, with enormous loss of efficiency and waste of the taxpayers' money. Under this method, in a few years, the whole bench will be composed of judges the equal of the best of the present bench.

ELEANOR MILLER,

Member of the Assembly, 47th District.

LAWRENCE COBB,

Member of the Assembly, 58th District.

Argument Against Assembly Constitutional Amendment No. 98

Amendment No. 98 should not be approved by the voters for the following reasons, to wit:

1. That it is essentially a measure to confer special political privileges to but one county of the State, which can not be enjoyed by any of the others.

2. That in this particular provision it comes within the province of "class legislation," a function entirely foreign to constitutional approval.

3. That it is an attempt to negative the State Primary Law, as it applies to the nomination of candidates for superior judges in but one county, an effort for bureaucratic control, which

(Twenty-one)

should not be permitted in any popular democratic form of government.

4. That the amendment, when interpreted as to its actual merits in the elimination of politics as an influence in the selection and election of superior judges, is devoid of any such outstanding objective or expedient.

5. That no change in our constitutional political privileges should be permitted that guarantees to one county subdivision of the State a right that is denied to all other counties.

6. That it should be defeated on the grounds of its added complication of a most complex

existing political situation, embracing the selection and election of all classes of judges, and until some measure can be decided upon and approved which will entirely eliminate all every possible political influence in the nomination and election of judges, no further tampering with present election laws should be permitted.

7. There is no fundamental principle involved in Amendment No. 98. Vote against it.

ASSEMBLYMAN IRA S. HATCH,
70th Assembly District.

SUPERIOR COURT—JUDICIAL ELECTION DISTRICTS. Assembly Constitutional Amendment 73.

Amends Constitution, Article VI, section 6. Requires there be in each county, and city and county, a superior court for which at least one judge be elected by electors thereof or selected as Constitution elsewhere provides. In selecting such judges in county having population exceeding one million empowers Legislature to divide county into judicial election districts, and provide for apportioning number of such judges of said county among said districts, number so apportioned to each district being selected from residents thereof as provided for selecting such judges in said county.

YES

NO

(For full text of measure, see page 30, part II)

Argument in Favor of Assembly Constitutional Amendment No. 73

Assembly Constitutional Amendment No. 73 provides that in a county having a population of more than one million, which necessarily applies to Los Angeles County only, the Legislature may create judicial districts from which judges shall be selected for the superior court in said county.

In a county the size of Los Angeles, campaigning for superior court judge under our present system is very expensive and may forbid many well qualified men from aspiring to judgeships. It is impossible for the average voter, in many cases, to acquaint himself as he would like with the qualifications of all of the many candidates for the fifty judicial positions.

These are the reasons for offering this amendment which grants authority to the Legislature to create districts from which they shall be selected rather than continuing county wide selection.

This amendment does not conflict with the provisions of proposed Assembly Constitutional Amendment No. 98, which is No. 14 on the ballot. Whether No. 98 is adopted or not, it is desirable that a county as large as Los Angeles should be divided into judicial districts.

Vote Yes on No. 15.

HARRY B. RILEY,
Assemblyman, 71st District.

FRANK G. MARTIN,
Assemblyman, 48th District.

SUPERIOR COURT JUDGES. Assembly Constitutional Amendment 98.

14 Empowers county over fifteen hundred thousand population at election to adopt new method selecting superior court judges. Governor appoints to fill vacancies from recommendations by board comprising Chief Justice Supreme Court, Presiding Justice Appellate District Court and county's State Senator. Appointment is until general election after four years following April first succeeding occurrence of vacancy. If incumbent declares candidacy people determine whether he be retained. If not, Governor appoints from those then recommended by board. Candidacy of each judge submitted to people each six years. People vote to retain or retire him.

YES	
NO	

Assembly Constitutional Amendment No. 98—A Resolution to propose to the people of the State of California an amendment to the Constitution of said State by adding a new section to Article VI to be known as section 8½, relating to the election of judges of the superior courts of certain counties, the terms of office of such judges, and the filling of vacancies in such offices.

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its fiftieth session commencing on the second day of January, 1933, two-thirds of all the members elected to each of the two houses voting in favor thereof, hereby proposes to the people of the State of California that a new section be added to Article VI of the Constitution of this State to be known as section 8½ and to read as follows:

(This proposed amendment does not expressly amend any existing section of the Constitution, but adds a new section thereto; therefore, the provisions thereof are printed in BLACK-FACED TYPE to indicate that they are NEW.)

PROPOSED AMENDMENT TO THE CONSTITUTION.

Sec. 8½. Any county having a population in excess of 1,500,000 may adopt the provisions of subdivisions 1, 2 and 3 of this section as applicable to such county if the majority of the electors of such county, voting thereon at a general election at which such question shall be submitted, shall vote in favor thereof. The provisions of subdivisions 1, 2 and 3 of this section may be adopted as applicable to such county in pursuance of an ordinance adopted by the vote of three-fifths of all of the members of the board of supervisors of such county, declaring that the public interest requires the submission at an election of the proposal to adopt the provisions of subdivisions 1, 2 and 3 hereof as applicable to such county, or in pursuance of a petition of qualified electors of said county as hereinafter provided, which petition must state the name and address of a person or persons to whom notice of the insufficiency of the petition shall be sent in the event

that the petition shall not have the required number of signatures of the qualified electors signed thereto. Such petition, signed by fifteen per cent of the qualified electors of the county, computed upon the total number of votes cast therein for all candidates for Governor at the last preceding general election at which a Governor was elected, praying for the adoption of the provisions of subdivisions 1, 2 and 3 as applicable to such county, may be filed in the office of the county clerk. It shall be the duty of the county clerk, within twenty days after the filing of the petition, to examine the same and to ascertain from the record of the registration of the electors of the county whether the petition is signed by requisite number of qualified electors. If required by the clerk, the board of supervisors shall authorize him to employ persons to assist him in the work of examining the petition, and the board shall provide for their compensation. Upon the completion of such examination, the clerk shall forthwith attach to the petition his certificate, properly dated, showing the results of his examination, and if the certificate shows that the petition is signed by the requisite number of qualified electors he shall immediately present the petition to the board of supervisors, if it is in session, otherwise at its next regular meeting after the date of such certificate. If it appears by the certificate that the petition has not the required number of signatures, the clerk shall so notify the person or persons designated as the person or persons to whom notification of the insufficiency of the petition shall be sent; whereupon the petitioners shall have thirty days from and after the date of receiving such notice of insufficiency to present and file a supplement bearing additional signatures. Upon the receipt of the supplement the clerk shall proceed forthwith to examine the same, so that such examination shall be completed within ten days from the date of its receipt by him. If it appears that the additional signatures and those which have not been legally rejected upon the original petition total the requisite number, the clerk shall forthwith attach to the petition his certificate, properly dated, showing that

petition has been signed by the requisite number of qualified electors, and shall immediately present said petition to the board of supervisors, if it is in session, otherwise at the next regular meeting after the date of such certificate. Upon the adoption of such ordinance, or the presentation of such petition, the board of supervisors shall submit the proposal to adopt the provisions of subdivisions 1, 2 and 3 of this section as applicable to such county to the electors of said county at the next succeeding general election occurring subsequent to ninety days after the adoption of such ordinance or the presentation of such petition. If the proposal is approved by a majority of the votes cast thereon, the board of supervisors shall cause a certificate, signed by the chairman of the board, to be filed with the Secretary of State, reciting that the proposal to adopt the provisions of subdivisions 1, 2 and 3 of this section as applicable to such county was approved by a majority of the votes cast thereon at such election, and upon the filing of such certificate the provisions of subdivisions 1, 2 and 3 of this section shall thereafter be applicable to such county, and effective as to all vacancies in the office of judge of the superior court in said county accruing after the date of filing of said certificate. The duties herein imposed upon the county clerk shall be performed by the registrar of voters in any county where the office of registrar of voters exists. Any county which has adopted the provisions of subdivisions 1, 2 and 3 of this section as applicable in said county for the nomination and appointment of judges of the superior court in said county may withdraw from the provisions of said subdivisions in the same manner as hereinabove set forth for the adoption thereof; and the duties and powers of the State and county officers herein specified shall be the same with respect to an ordinance or petition to withdraw from the provisions of said subdivisions as those above prescribed with respect to the adoption thereof. If the proposal to withdraw from the provisions of said subdivisions is approved at a general election the withdrawal shall become effective upon the filing with the Secretary of State of the certificate signed by the chairman of the board of supervisors reciting that the proposal to withdraw from the provisions of subdivisions 1, 2 and 3 of this section as applicable to such county was approved by a majority of the votes cast thereon at such election, and the general provisions of this Constitution with respect to appointment and election of judges of the superior court shall forthwith become effective in said county as to all vacancies then existing or thereafter accruing in the office of judge of the superior court in said county; but such withdrawal shall not in any way affect the validity of any appointment made or election held under the provisions of said subdivisions, nor the term of office of any judge so appointed or elected.

Subdivision 1. The term of office of judges of the superior court shall be six years from and after the first Monday of January after the first day of January next succeeding their election. Within thirty days before the first day of July next preceding the expiration of his term, any judge of the superior court may file with the officer charged with the duty of certifying nominations for publication in the official ballot a declaration of candidacy for election to succeed himself. If he does not file such declaration the Governor must nominate a suitable person for the office before the sixteenth day of September, by filing such nomination with the officer charged with the said duty of certifying nominations, which nomination shall be made from candidates recommended in the same manner as those recommended for appointment to a vacant office under subdivision 2 hereof. In either event the name of such candidate shall be placed upon the ballot for the ensuing general election in November in substantially the following form:

For Judge of the Superior Court

----- (name) Shall he be elected to the office for the term expiring in January, -----? (year)	Yes	
	No	

No name shall be placed upon the ballot as a candidate for such office except that of a person so declaring or so nominated. If a majority of the electors voting upon such candidacy vote "Yes," such person shall be elected to the said office. If a majority of those voting thereon vote "No," such person shall not be elected and said office shall be deemed vacant for the ensuing term.

Subdivision 2. A vacancy in the office of judge of the superior court shall be filled at the first general State election after the expiration of four years after the first day of April next succeeding the accrual of such vacancy, by the election in the manner provided in subdivision 1 of this section of a judge for a full term to commence on the first Monday in January after the first day of January next succeeding his election. The Governor, within thirty days after presentation to him of the names of candidates as hereinafter provided, must appoint a person to fill such vacancy until the commencement of such term, but no one who has been rejected at an election for said office shall be eligible for such appointment. Such appointment shall be made from candidates nominated by a board composed of the Chief Justice of the Supreme Court, the Presiding Justice of the District Court of Appeal of the appellate district in which such county is situated, or if there is more than one division of the Dis-

strict Court of Appeal in such appellate district, the Presiding Justice of the division of such District Court of Appeal first established, and the member of the State Senate representing said county. Said board, within sixty days after the accrual of such vacancy, must nominate and present to the Governor the names of not less than two nor more than three candidates for each such vacancy. Any such nomination must be the unanimous action of said board, except that in any case in which the board is unable to act unanimously within thirty days after the accrual of a vacancy, such nomination may thereafter be made by a majority of the board. If the Governor fails to appoint one of the persons so nominated to fill a vacancy within thirty days after presentation to him of the names of the required number of candidates, the board must appoint one of said candidates to fill the vacancy.

The powers and duties of said board in such a case with respect to such appointment shall be the same as those of the Governor, and a commission executed and signed by a majority of said board shall in such event be of like validity and effect as if so executed and signed by the Governor.

Subdivision 3. In addition to the methods of removal by the Legislature provided by sections 16 and 18 of Article IV and by section 10 of this article, the provisions of Article XXIII relative to the recall of elective public officers shall be applicable to judges elected or appointed pursuant to the provisions of this section, so far as the same relate to removal from office.

All provisions in conflict with subdivisions 1, 2 and 3 of this section shall be superseded by said subdivisions in any county which adopts the provisions of said subdivisions.

SUPERIOR COURT—JUDICIAL ELECTION DISTRICTS. Assembly

Constitutional Amendment 73. Amends Constitution, Article VI, section 6. Requires there be in each county, and city and county, a superior court for which at least one judge be elected by electors thereof or selected as Constitution elsewhere provides. In selecting such judges in county having population exceeding one million empowers Legislature to divide county into judicial election districts, and provide for apportioning number of such judges of said county among said districts, number so apportioned to each district being selected from residents thereof as provided for selecting such judges in said county.

YES	
NO	

Assembly Constitutional Amendment No. 73—A resolution to propose to the people of the State of California an amendment to the Constitution of said State by amending section 6 of Article VI thereof, relating to superior courts.

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its regular session commencing on the second day of January, 1933, two-thirds of the members elected to each of the two houses of the said Legislature voting therefor, hereby proposes to the people of the State of California, that the Constitution of said State be amended by amending section 6 of Article VI thereof, to read as follows:

(This proposed amendment expressly amends an existing section of the Constitution; therefore, NEW PROVISIONS proposed to be INSERTED are printed in BLACK-FACED TYPE.)

PROPOSED AMENDMENT TO THE CONSTITUTION.

Sec. 6. There shall be in each of the organized counties, or cities and counties, of the State, a superior court, for each of which at least one judge shall

be elected by the qualified electors of the county, or city and county, at the general State election or selected in the manner then provided elsewhere in this Constitution. There may be as many sessions of a superior court, at the same time, as there are judges elected, appointed or assigned thereto. The judgments, orders, and proceedings of any session of a superior court, held by any one or more of the judges sitting therein, shall be equally effectual as though all the judges of said court presided at such session.

For the purpose of selecting judges of a superior court within any county having a population of more than one million inhabitants as determined by the last preceding census taken under the authority of the Congress of the United States, the Legislature may divide such county into judicial election districts, and may provide from time to time for the apportionment of the number of judges of the superior court of said county among said districts, in which event the number of judges apportioned to each district shall be selected from among the residents of such district in the manner then provided for the selection of judges of the superior court in such county.